

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

O.Z. MARTIN,

Plaintiff,

v.

PETRAS, et al.,

Defendants.

No. 2:20-cv-1536 WBS CKD P

ORDER

Plaintiff is a California prisoner proceeding pro se with a claim arising under the Eighth Amendment against three California Department of Corrections and Rehabilitation (CDCR) physicians: Dr. Liu, Dr. Ota and Dr. Petras. On August 16, 2023, the court ordered plaintiff to pay counsel for defendants Dr. Ota and Dr. Petras the sum of \$1,320 and counsel for defendant Dr. Liu \$900 because plaintiff refused to answer most of the questions asked at his first deposition without any even remotely reasonable basis for doing so necessitating that counsel file a motion to compel and depose plaintiff a second time.

Plaintiff did not pay. As a result, on October 3, 2023, the court ordered plaintiff to show cause why this action should not be dismissed under Federal Rule of Civil Procedure 41(b) for failure to follow court orders. In the response to the order to show cause (ECF No. 83), plaintiff indicates he is unable to pay. He also attempts to minimize his behavior at the deposition citing that he is not an attorney.

1 Because plaintiff is unable to pay the sanctions previously ordered, the court cannot find  
2 that plaintiff willfully or in bad faith violated a court order so dismissal under Federal Rule of  
3 Civil procedure 41(b) based upon violation of a court order is not appropriate. Accordingly, the  
4 court's order to show cause will be discharged. However, plaintiff is warned that if he engages in  
5 any act as it pertains to this case in the future that the court deems frivolous or in bad faith such as  
6 his behavior at his deposition, the court will, in all likelihood, recommend that this action be  
7 dismissed.

8 Accordingly, IT IS HEREBY ORDERED that:

9 1. The court's October 23, 2023, order to show cause is discharged.

10 2. Plaintiff is warned that if he engages in any act as it pertains to this case in the future  
11 that the court deems frivolous or in bad faith, the court will, in all likelihood, recommend that this  
12 action be dismissed.

13 3. Discovery is closed.

14 4. All pretrial motions shall be filed on or before April 12, 2024. Motions shall be briefed  
15 in accordance with paragraph 8 of this court's order filed May 19, 2021

16 Dated: February 16, 2024



CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE